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CONSOLIDATION RULING

In the matter of the Department of Corrections
Ruling Number 2020-5069
March 6, 2020

This ruling addresses the consolidation of the grievant's two grievances filed with the Department of Corrections (the "agency"). For the reasons discussed below, the Office of Employment Dispute Resolution ("EDR") at the Virginia Department of Human Resource Management ("DHRM")¹ finds that consolidation of these grievances into a single hearing is appropriate and practicable.

FACTS

The two grievances at issue are 1) a February 4, 2020 expedited grievance challenging the agency's issuance of a Group II Written Notice for alleged failure to follow instructions and/or policy, and 2) a second February 4, 2020 expedited grievance challenging the agency's issuance of a Group II Written Notice with a disciplinary demotion, pay reduction, and transfer for alleged violation of DHRM Policy 2.05, *Equal Employment Opportunity* and DHRM Policy 2.35, *Civility in the Workplace*.² The agency has requested consolidation of these matters.

DISCUSSION

Approval by EDR in the form of a compliance ruling is required before two or more grievances may be consolidated in a single hearing. Moreover, EDR may consolidate grievances

¹ The Office of Equal Employment and Dispute Resolution has separated into two office areas: the Office of Employment Dispute Resolution and the Office of Equity, Diversity, and Inclusion. While full updates have not yet been made to the *Grievance Procedure Manual* to reflect this change, this Office will be referred to as "EDR" in this ruling. EDR's role with regard to the grievance procedure remains the same.

² The first grievance could not, by itself, be appropriately filed as an expedited grievance without the agency's agreement. See *Grievance Procedure Manual* § 3.4 (stating that a grievance challenging "a separation not considered a 'dismissal' . . . , demotion, suspension without pay, or any other action that results in an actual loss of wages" are automatically eligible for the expedited process, and that grievances challenging other issues are eligible for the expedited process if the parties agree). Though the parties do not appear to have discussed this issue explicitly, both Written Notices were issued to the grievant on the same date and the agency appears to have addressed the grievances collectively during the management steps. EDR therefore considers the agency to have agreed to the grievant's use of the expedited process for the first grievance.

for hearing without a request from either party.³ EDR strongly favors consolidation and will consolidate grievances when they involve the same parties, legal issues, policies, and/or factual background, unless there is a persuasive reason to process the grievances individually.⁴

EDR finds that consolidation of the two February 4, 2020 grievances is appropriate. These grievances involve the same grievant and could share common themes, claims, and witnesses. The grievances relate to conduct by the grievant that resulted in similar disciplinary actions issued. Further, we find that consolidation is not impracticable in this instance. Therefore, the two grievances are consolidated for a single hearing.⁵ A hearing officer will be appointed in a forthcoming letter.

EDR's rulings on compliance are final and nonappealable.⁶



Christopher M. Grab
Director
Office of Employment Dispute Resolution

³ *Grievance Procedure Manual* § 8.5.

⁴ *See id.*

⁵ Pursuant to the fee schedule established by EDR's Hearings Program Administration policy, consolidated hearings shall be assessed a full fee for the first grievance and an additional half fee for the second grievance. *See* EDR Policy 2.01, *Hearings Program Administration*, Attach. B.

⁶ *See* Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).